

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

JOSHUA M. BRENNER,

Defendant.

CASE NO. 4:13CR3067

AMENDED TENTATIVE FINDINGS

On December 10, 2013, the Court received a 2nd Revised Presentence Investigation Report in this case. This 2nd Revised Presentence Investigation Report was submitted to correct the description of the charge in ¶ 34 of the Revised Presentence Investigation Report provided to the Court on November 6, 2013. The Defendant filed an objection to the Revised Presentence Investigation Report at Filing No. 32 in which the Defendant stated his objection to charge described in ¶ 34. It appears that the Defendant's objection has been resolved and is now moot. The Defendant also filed a motion for variance and supporting brief (Filing Nos. 33 and 35). The government did not object to the Revised Presentence Investigation Report. See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

IT IS ORDERED:

1. The Defendant's objection in Filing No. 32 will be denied as moot;
2. The Court intends to adopt the PSR in all other respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion

challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final;

5. The Defendant's Motion for Variance (Filing No. 33) will be heard at sentencing; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 11th day of December, 2013.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge